

State of New Mexico
Taxation and Revenue Department
CIGARETTE MANUFACTURER'S MONTHLY DISTRIBUTION REPORT
Instructions

If you have questions about completing this report, call the Special Tax Unit at (505) 827-6842.

Important: You must have a valid New Mexico Cigarette Manufacturer's License issued by the Taxation and Revenue Department to manufacture cigarettes in New Mexico. See Form RPD-41310, *Application for Cigarette Distributor's or Manufacturer's License*, to obtain a license.

Since 2003, only brand names and families of tobacco products, which include cigarettes, little cigars and roll-your-own tobacco products, that are compliant with the Master Settlement Agreement (MSA) and the Tobacco Escrow Fund Act, may be sold or distributed in New Mexico (whether with a state excise stamp affixed, a tax-exempt stamp or a tax-credit stamp affixed). The New Mexico Attorney General's "Tobacco Manufacturers Directory" is the directory of brand names and families of tobacco products, for both participating and non-participating manufacturers, who are compliant under the MSA or as required by the Tobacco Escrow Fund Act. You can find the directory by visiting www.nmag.gov. A brand of cigarette or tobacco product not listed in the directory or listed in the directory but listed as not compliant, is considered contraband and subjects the manufacturer, distributor or retailer to penalties, sanctions and the product to seizure.

WHO MUST FILE - For each of its facilities, a manufacturer of cigarettes in New Mexico must submit Form RPD-41311, *Cigarette Manufacturer's Monthly Distribution Report*, to the New Mexico Taxation and Revenue Department.

Other Reporting Requirements.

Non-participating Manufacturer (NPM) reporting. Persons manufacturing or importing "roll-your-own" tobacco products made by non-participating manufacturers (NPM), for resale, consignment sale or distribution in New Mexico must also complete **Form RPD-41188, *Non-participating Manufacturer Brand Cigarettes Distributed or Sold***. Attach a completed Form RPD-41188 to Form RPD-41311, *Cigarette Manufacturer's Monthly Report*, and report the ounces of "roll-your-own" tobacco distributed or sold inside the state of New Mexico, on which you have paid tobacco products tax.

"Roll-Your-Own" tobacco is subject to the tobacco products tax, and is also included in the reporting requirements for Non-Participating Manufacturer brands.

Important: Before completing Form RPD-41311, see *Important Definitions* in these instructions.

WHEN TO FILE - To avoid penalties, Form RPD-41311, *Cigarette Manufacturer's Monthly Distribution Report*, must be submitted to the Department on or before the 25th day of the month following the close of the report period. A reporting period is a full calendar month.

Penalties for Failure to Report.

The Department may revoke or suspend the New Mexico Cigarette Manufacturer's License of a manufacturer who knowingly fails to file timely the reports described in these instructions.

A penalty, in addition to any other penalty provided in the Cigarette Tax Act, shall be assessed for a manufacturer who knowingly fails, neglects or refuses to submit this report as required by the Cigarette Tax Act.

- For a first offense, a penalty of up to \$1,000 may be imposed.
- For a second offense, a penalty of not less than \$1,500 and no more than \$2,500 may be imposed.
- For a third or subsequent offense, a penalty of not less than \$5,000 may be imposed.

Any tobacco product manufacturer, stamping agent or importer of cigarettes, or any officer, employee or agent of any such entity, who knowingly makes a materially false statement in any record required to be kept by the Cigarette Tax Act, or in any report or return required to be filed with the Department by the Cigarette Tax Act is guilty of a fourth degree felony.

IMPORTANT DEFINITIONS

"Package" means an individual pack, box or other container, and does not include a container that itself contains other containers, such as a carton of cigarettes.

"Cigarette" means any roll of tobacco or any substitute for tobacco wrapped in paper or other substance not containing tobacco; a roll of tobacco that is wrapped in any substance containing tobacco, other than 100% natural leaf tobacco, and which because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by consumers as a cigarette, and includes bidis and kreteks; or any other roll of tobacco that is defined as a "cigarette" in Sub-section D of Section 6-4-12 NMSA 1978. "Cigarette" includes certain small cigars sold in packages similar to cigarettes. If a small cigar is wrapped in something other than 100% tobacco, or because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by consumers as a cigarette, it is a cigarette for purposes of the Cigarette Tax Act. Roll-your-own tobacco is not a cigarette for purposes of the Cigarette Tax Act, and is subject to the tobacco products tax.

"Distributor" means a person licensed pursuant to the Cigarette Tax Act to sell or distribute cigarettes in New Mexico.

"Distributor" does not include:

- a retailer;
- a cigarette manufacturer, export warehouse proprietor

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or importer with a valid permit pursuant to 26 U.S.C. 5713, if that person sells cigarettes in New Mexico only to distributors who hold valid licenses under the laws of a state or sells to an export warehouse proprietor or to another manufacturer; or

- a common or contract carrier transporting cigarettes pursuant to a bill of lading or freight bill, or a person who ships cigarettes through the state by a common or contract carrier pursuant to a bill of lading or freight bill.

"Distributed" means sold or otherwise transferred to another person or facility.

"Manufacturer" means a person who manufactures, fabricates, assembles, processes or labels a cigarette or imports from outside the United States, directly or indirectly, a finished cigarette for sale or distribution in the United States.

"Retailer" means a person, whether located within or outside of New Mexico, who sells cigarettes at retail to a consumer in New Mexico and the sale is not for resale.

"Brand Family" means all styles of cigarettes sold under the same trademark and includes cigarettes differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol", "lights", "kings" and "100s".

Manufacturer's License - A person may not manufacture cigarettes in New Mexico unless licensed by the New Mexico Taxation and Revenue Department. A person licensed to manufacture cigarettes in New Mexico is authorized to:

- manufacture, produce and package cigarettes;
- receive imported cigarettes;
- sell unstamped cigarettes to a distributor, another manufacturer or an export warehouse proprietor, and
- sell unstamped cigarettes outside of New Mexico.

HOW TO COMPLETE THE FORM - To complete Form RPD-41311, *Cigarette Manufacturer's Monthly Distribution Report*,

enter the report period and complete the name and address block. You must enter the name, address, identification numbers and New Mexico cigarette manufacturer's license number for the reporting manufacturer's facility. Include the contact information. Follow the line instructions for the reports and attachments. Sign and date the form and mail to: New Mexico Taxation and Revenue Department, Cigarette Tax Unit, P.O. Box 25123, Santa Fe, New Mexico 87504-5123. For assistance, call (505) 827-6842.

LINE INSTRUCTIONS FOR FORM RPD-41311, *Cigarette Manufacturer's Monthly Distribution Report*. Cigarette manufacturers must report the quantities of packages of cigarettes distributed inside New Mexico during the report period, and the name and address of persons to whom the cigarettes were distributed or sold. Report *only* the packages of cigarettes distributed or sold to a New Mexico location.

Report by brand family and name and address of the business in New Mexico to whom the cigarettes were distributed or sold, enter the quantities of packages of cigarettes distributed or sold during the reporting period. For each entry, enter the proper *Distributed Code* from the Distributed Code Table below.

Distributed Code. Enter a *Distributed Code* (listed below) for each itemized entry. The *Distributed Code* describes the type of entity of the recipient of the cigarettes distributed or sold by the manufacturer. For each itemized entry, enter from the table below the *Distributed Code* that best applies to the person to whom the cigarettes were distributed or sold.

If more than one page is needed, complete the supplemental page for this report. Total the quantities from all pages on page one of Form RPD-41311, *Cigarette Manufacturer's Monthly Distribution Report*.

DISTRIBUTED CODE TABLE

<u>Code</u>	<u>Distributed or sold:</u>
N.....	to another manufacturer, distributor or export warehouse proprietor who is an Indian nation, tribe or pueblo in New Mexico, or to a tribal member located on the Indian nation, tribe or pueblo in New Mexico. Note: Manufacturers may not sell unstamped cigarettes to retailers.
F	to another facility in New Mexico of the same manufacturer.
NM	to another manufacturer, distributor or export warehouse proprietor in New Mexico.